

Supreme Court Law Curbing Red

8-0 Ruling Cites 1st Amendment On Free Speech

By Morton Mintz

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The Supreme Court ruled yesterday that a law regulating the receipt of unsealed Communist mail from abroad is unconstitutional.

An 8-to-0 opinion for the Court written by Justice William O. Douglas said that the law is "at war" with the wide-open debate and discussion contemplated by the First Amendment.

The opinion cited a dissent of 44 years ago in which the late Justice Oliver Wendell Holmes said that "the use of the mails is almost as much a part of free speech as the right to use our tongues . . ."

First Since 1946

The decision was believed to be the first since 1946 in which an Act of Congress was voided by a unanimous Court. Justice Byron R. White, who was Deputy Attorney General when the mail law was enacted, did not participate in the decision.

The decision was also said by an attorney for the American Civil Liberties Union to be the first in which the Court found a Federal law to be in direct violation of the First Amendment.

The author of the statute, Rep. Glenn Cunningham (R-Neb.), said he was studying the decision and planning to

introduce new legislation with similar intent.

The right to receive publications was termed "a fundamental right" in a concurring opinion by Justice William J. Brennan Jr. Joined by Justices Arthur J. Goldberg and John M. Harlan, Justice Brennan said:

"The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them. It would be a barren marketplace of ideas that had only sellers and no buyers."

First Class Not Affected

The 1962 law, which does not apply to first class mail, requires the Postmaster General to detain foreign publications designated by Customs officials as "Communist political propaganda."

The addressee is then notified that the mail is being held up and will be destroyed unless he returns a reply card within 20 days.

Last March the Post Office Department abandoned a practice of maintaining a list of those who returned the cards. The Department adopted a new practice of requiring a reply card for each individual piece of mail required.

A Post Office Department

See COURT, A4, Col. 6

Court rules for the Federal Communications Commission in case involving the keeping of subpoenaed documents confidential.

Page A4

Voids Mail

spokesman said yesterday that messages were being sent out immediately to stop the program as of today.

The Court acted in cases involving Corliss Lamont of New York City, to whom a copy of the *Peking Review* was mailed, and Lief Heilberg of San Francisco, who wanted a Chinese Communist pamphlet in the universal language of Esperanto.

Lamont sought an injunction against enforcement of the law. The Post Office then told him that the suit he had filed amounted to an expression of a desire to receive Communist propaganda and that none of his mail therefore would be detained.

Because Lamont could now receive his mail unimpeded a three-judge District Court dismissed his complaint as moot.

In Heilberg's case, which was similar, another three-judge panel ruled the statute unconstitutional.

The Supreme did not reach the constitutionality of the standards used to judge mailings as Communist propaganda.

Instead, it rested "on the narrow ground that the ad-

dressee in order to receive his mail must request in writing that it be delivered. This amounts to an unconstitutional abridgment of . . . First Amendment rights."

Douglas went on to say that the affirmative obligation imposed by the law to request mail "is almost certain to have a deterrent effect, especially as respects those who have sensitive positions.

"Their livelihood may be dependent on a security clearance. Public officials . . . might think they would invite disaster if they read what the Federal Government says contains the seeds of treason.

"Apart from them, any addressee is likely to feel some inhibition in sending for literature which Federal officials have condemned as 'Communist political propaganda.'"

The Government had argued that Congress enacted the mail curb in the awareness that a postal subsidy in effect was being given the very Communist governments that bar American publications.